IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 405 (S/B) 2003

Dr. Rama Nand,
S/o Shri Birbal Singh,
Veterinary Officer, Sadar,
Haridwar and another. ---- Petitioners

Vs.

The Secretary,
Animal Husbandry,
Government of Uttaranchal,
Dehradun and others. ---- Respondents

Mr. L.P. Naithani, Advocate for the petitioners.
Mr. R.P. Nautiyal, learned Advocate for the respondent No. 3 to 12.
Mr. K.P. Upadhayaya, learned Standing Counsel for the State.

Coram: Hon. S.H. Kapadia, C.J.
Hon. M.M. Ghildiyal, J.

Dated: 31.10.2003

PC:

Writ petition No. 373 of 2003 was filed in this Court inter alia challenging order dated 16th July 2003 by which employees belonging to hill sub cadre were given seniority over employees belonging to Uttar Pardesh Cadre.

The writ petition No. 373 of 2003 came for hearing on 8th September 2003 when petitioner were directed to approach Public Service Tribunal, Uttaranchal. The Registry was directed to transfer the records and proceedings of the case to Public Service Tribunal, Uttaranchal, therefore, writ petition No. 373 of 2003 was not decided on merits. However on 16th September 2003 Additional Secretary to the State of Uttaranchal took the view that this Court had dismissed writ petition No. 373 of 2003. Consequently, he came to the conclusion that the above order dated 16th July 2003, which was impugned in writ petition No. 373 of 2003, has been confirmed by this Court. This order dated 16th September 2003 passed by the Additional Secretary, State of Uttaranchal is erroneous. It is based on misconception. We have not gone into the validity of the order dated

16th July 2003 in writ petition No. 373 of 2003 because the matter was cognizable by Public Service Tribunal, Uttaranchal. Accordingly, we set aside the order dated 16the September 2003 passed by Additional Secretary, State of Uttaranchal.

Before concluding we may clarify that Mr. Naithani, learned Counsel for the petitioners herein has restricted the challenge in the present petition only to the order dated 16th September 2003 passed by Additional Secretary, State of Uttaranchal. We once again clarify that the validity of the order dated 16th July 2003 will be decided by Public Service Tribunal, Uttaranchal

Accordingly, writ petition is disposed of. No order as to costs.

(M.M. Ghildiyal, J.) **(S.H. Kapadia, C.J.)**

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